

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
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UNITED STATES OF AMERICA, :

-v.- :

THERESE OKOUMOU, :

Defendant. :

ORDER

: 18 Cr. 469 (GWG)

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GABRIEL W. GORENSTEIN, UNITED STATES MAGISTRATE JUDGE

The Court has reviewed the filings in connection with defendant's application for a trial by jury in this case charging a petty offense. (Docket # 20, 21, 24). While the defendant argues that federal courts have the "discretion" to order a trial by jury in petty offense cases, she points to no instance in which this alleged discretion has ever been exercised by a judge in any federal case.

Be that as it may, the Court recognizes that it has "the responsibility to supervise the administration of criminal justice in order to ensure fundamental fairness." United States v. Baird, 414 F.2d 700, 710 (2d Cir. 1969). The Court does not agree, however, with defendant's suggestion that "fundamental fairness" allows a Court to empanel a jury in certain petty offense cases and not in others. Indeed, the Court does not believe there is any neutral or non-arbitrary basis on which it could exercise discretion to order a jury trial. To the contrary, to order a jury trial in some cases and not in others would be unfair to those defendants who are denied a jury trial. We have no doubt that the denial of trial by jury in all petty offense cases is "fundamental[ly] fair[ly]," Baird, 414 F.2d at 710, given that the Supreme Court has ruled that the Fourteenth Amendment does not require a trial by jury in any case charging a petty offense. See Duncan v. Louisiana, 391 U.S. 145 (1968).

Accordingly, the trial in this matter will be to the Court.

SO ORDERED.

Dated: October 1, 2018
New York, New York


GABRIEL W. GORENSTEIN
United States Magistrate Judge